

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

MAGNUM MINERALS, LLC, MAGNUM §  
BLUE RIBBON FEEDS, INC., GEARN §  
OFFSHORE, INC., AND TIM A. GEARN, §  
Individually and on Behalf of Others Similarly §  
Situated, §  
§  
Plaintiffs, §  
v. §  
§ NO. 02:13-CV-00103  
HOMELAND INSURANCE COMPANY OF §  
NEW YORK, MARK COLLIER, §  
CONSUELO AYALA, Individually and as the §  
Representative of the ESTATE OF PEDRO §  
MEJIA BELTRAN and as Next Friend and §  
Natural Mother of Minors, EMA, JYMA, §  
AND CBDM, ELGIN B. ALLEN, JR., AIM §  
ASSOCIATION INSURANCE §  
MANAGEMENT, INC., TERRY M. §  
FERRELL, ONEBEACON INSURANCE §  
GROUP, ONEBEACON ACCIDENT §  
GROUP, ONEBEACON AMERICAN §  
INSURANCE COMPANY, ONEBEACON §  
INSURANCE COMPANY, AND TRADERS §  
& GENERAL INSURANCE COMPANY, §  
§  
Defendants. §

**ANSWER OF JASON GEARN TO HOMELAND INSURANCE COMPANY  
OF NEW YORK'S THIRD-PARTY COMPLAINT**

TO THE HONORABLE MARY LOU ROBINSON, UNITED STATES DISTRICT JUDGE:

Jason Gearn files his Answer to Homeland Insurance Company of New York's ("Homeland")

Third-Party Complaint and shows the following:

**A. ADMISSIONS AND DENIALS**

1. Gearn can neither admit nor deny the factual allegations in Paragraph 1.
2. Gearn admits the factual allegations of Paragraph 2.

3. Gearn denies that the Court has jurisdiction to decide this matter and therefore denies the allegations in Paragraph 3.

4. Gearn admits that Deaf Smith County, Texas is the proper venue, but denies the remaining allegations of Paragraph 4 and denies that the Court has jurisdiction to decide this matter.

5. Gearn admits the allegations in sentences 1 through 3 of Paragraph 5. Gearn can neither admit nor deny the allegations in sentence 4, Paragraph 5.

6. Gearn admits that before the accident, Homeland issued insurance policies to Gearn Offshore and Blue Ribbon, but denies the remaining allegations in sentence 1, Paragraph 6. Gearn denies the allegations as stated in sentences 2 and 3, Paragraph 6. Gearn denies the remaining allegations of sentences 4 through 7, Paragraph 6.

7. Gearn admits the allegations in Paragraph 7.

8. Paragraph 8 contains a statement to which no answer is required by Gearn.

9. Gearn denies the allegations in Paragraph 9 and therefore denies that Homeland is entitled to contribution and indemnity from him.

10. Gearn denies that Homeland is entitled to the relief requested in its "Prayer for Relief."

#### **B. AFFIRMATIVE DEFENSES**

11. Homeland's Third-Party Complaint fails to state a claim upon which relief can be granted.

#### **C. PRAYER**

Gearn asks the Court to enter judgment that Homeland take nothing by its Third-Party Complaint against him, that the Court deny all relief requested by Homeland, and that the Court dismiss Homeland's Third-Party Complaint against him with prejudice. Gearn also asks that he

recover from Homeland his reasonable attorney's fees and costs of suit, and that the Court award him all other relief to which he is entitled.

Respectfully submitted,

LAW OFFICE OF MARK A. TICER  
Mark A. Ticer, SBN 20018900  
Jennifer W. Johnson, SBN 24060029  
4144 N. Central Expressway, Suite 1255  
Dallas, Texas 75204  
Telephone: 214/219-4220  
Facsimile: 214/219-4218

- and -

LOVELL, LOVELL, NEWSOM & ISERN, L.L.P.  
John H. Lovell, SBN 12609300  
Deborah D. Reeves, SBN 24006668  
112 West Eighth Avenue, Suite 1000  
Eagle Centre Building  
Amarillo, Texas 79101-2314  
Tel. No. 806/373-1515  
Fax No. 806/379-7176  
Email: [john@lovell-law.net](mailto:john@lovell-law.net)  
[deborah@lovell-law.net](mailto:deborah@lovell-law.net)

By: /s/ Deborah D. Reeves  
Deborah D. Reeves

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

I hereby certify that on July 5, 2013, the foregoing document was filed with the clerk of the court for the Northern District of Texas using the electronic case filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorney of record who has consented in writing to accept this Notice as service of this document by electronic means:

Robert C. Lyon  
Robert Lyon & Associates  
3301 Century Drive, Suite 1  
Rowlett, Texas 75088  
-and-  
Juan Hernandez  
Hernandez & Browning  
8111 LBJ Freeway, Suite 1065  
Dallas, Texas 75251

***ATTORNEYS FOR CONSUELO AYALA,  
INDIVIDUALLY AND AS THE REPRESENTATIVE  
OF THE ESTATE OF PEDRO MEJIA BELTRAN  
AND AS NEXT FRIEND AND NATURAL MOTHER  
OF MINORS, EMA, JYMA, AND CBDM.***

W C Bratcher  
Mark McBrayer  
Crenshaw, Dupree & Milam, L.L.P.  
1500 Broadway, 8<sup>th</sup> Floor  
P.O. Box 1499  
Lubbock, Texas 79408  
-and-  
Slater Elza  
Underwood Law Firm, P.C.  
145 W. 3<sup>rd</sup>  
P.O. Box 1655  
Hereford, Texas 79045

***ATTORNEYS FOR MARK COLLIER***

Richard E. Schellhammer  
Cara D. Kennemer  
Goins, Underkofler, Crawford & Langdon  
1201 Elm Street, Suite 4800  
Dallas, Texas 75270

***ATTORNEYS FOR TERRY FERRELL***

Michael Keeley  
John Riddle  
Carla Crapster  
Strasburger & Price, LLP  
901 Main Street, Suite 4400  
Dallas, Texas 75202  
-and-  
Wyatt Brooks  
Burdett, Morgan, Williamson & Boykin, LLP  
3423 S. Soncy Road, Suite 300  
Amarillo, Texas 79119  
***ATTORNEYS FOR HOMELAND INSURANCE  
COMPANY OF NEW YORK***

Robert G. Chadwick, Jr.  
Timothy B. Soefje  
Campbell & Chadwick, P.C.  
4201 Spring Valley Road, Suite 1250  
Dallas, Texas 75244  
***ATTORNEYS FOR ELGIN B. ALLEN, JR. &  
AIM ASSOCIATION INSURANCE  
MANAGEMENT, INC.***

/s/ Deborah D. Reeves  
Deborah D. Reeves